IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR.

O R D E R

Dr.Shyam Sunder Sharma
Versus
National Consumer Disputes Redressal Commissioner, New Delhi and ors.

S.B. CIVIL WRIT PETITION NO.2744/2007

Date of Order : 19/4/2007.

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HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri S.R. Bajwa, Sr.Advocate with
Shri Rajendra Prasad for the petitioner.

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Heard learned counsel for the petitioner.

This writ petition has been filed challenging the order dated 15/1/2007 passed by the Commissioner National Consumer Disputes Redressal, New Delhi whereby the National Commission directed the petitioner who was the appellant before the Commission, to prepare interrogatories treating the affidavit filed by the complainant, as affidavit in evidence and serve it on

the respondent and deferred the matter for finaly hearing on 26/4/2007.

Learned counsel for the petitioner invited my attention to the orders dated 13/5/1996 and 6/1/1997 passed by the State Commission to canvass that the affidavit which formed basis of the aforesaid direction given by the National Commission, in fact, was not even accepted in evidence because the application filed by the respondents for placing the same on record itself was rejected by the State Commission vide order dated 13/5/1996 and this direction was reiterated by similar order passed on 6/1/1997. The National Commission ignoring these vital aspects of the matter treated the so-called affidavit as part of record and on that basis directed the petitioner to prepare interrogatories treating the affidavit filed by the complainant as affidavit in evidence and thus, the Commission has devised a mode of cross-examination which is foreign to Consumer Protection Act, 1986 and the Rules framed thereunder. It was argued that the aforesaid orders having not been challenged by the respondents attained finality by virtue of the provisions contained in Section 24 of the Act of 1986.

I have my grave doubts that whether a writ petition under Articles 226 & 227 of the Constitution of India against the order passed by the National Commission and that too, at the inter-locutory stage, would be maintainable because whether or not the Commission would be falling under the supervisory jurisdiction of this Court, is by itself a debatable question. But without going into that, it must be observed that there is no reason why the petitioner cannot approach the National Commission itself and draw its attention to all those facts which he seeks to canvass before this Court as to the admissibility or otherwise of the affidavit which according to him has formed the basis for the direction issued by it on 15/1/2007.

I, therefore, do not see any reason to entertain the writ petition. The writ petition is accordingly dismissed summarily.

anil **(MOHAMMAD RAFIQ), J.**